

HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND

www.ohchr.org • TEL: +41 22 917 9359/9407 • FAX: +41 22 917 9008 • E-MAIL: registry@ohchr.org

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the independence of judges and lawyers

REFERENCE: UA UZB 2/2014:

2 June 2014

Dear Mr. Nurmetov,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on the independence of judges and lawyers pursuant to Human Rights Council resolutions 24/7, 24/5, 25/18, and 17/2.

In this connection, we would like to bring to the attention of your Government information we have received concerning the ongoing arbitrary detention of Mr. **Ganikhon Mamatkhonov**, regional representative of the International Society for Protection of Human Rights in the Fergana province of Uzbekistan.

Mr. Mamatkhonov has worked to defend economic and social rights, particularly providing legal aid in the context of farmers' land rights in the Fergana valley. The human rights defender also collaborated with the Radio Liberty Uzbek Service, which reports on, amongst other things, human rights violations in Uzbekistan.

According to the information received:

Mr. Mamatkhonov was originally sentenced on 25 November 2009, following his conviction by the Akhunbabaev District Court of Ferghana, which found him guilty of violating the Uzbek Criminal Code: namely, article 168(3) for extortion and article 211(3) for bribery. The Court imposed a sentence of five years' imprisonment amid claims by independent observers that the prosecution in Mr. Mamatkhonov's trial had failed to establish proof of the human rights defender's guilt. Further, the court allegedly refused to call Mr. Mamatkhonov's witnesses to testify.

During the pre-trial investigation and court hearings in 2009, Mr. Mamatkhonov reportedly suffered three heart attacks. The Uzbek authorities reportedly denied providing him with medical treatment while he was detained.

On 5 January 2010, the regional court of Fergana reduced Mr. Mamatkhonov's sentence to four years and five months in a prison settlement. In April 2010, Mr. Mamatkhonov was reportedly transferred once more to a prison.

According to the information received, on 10 March 2014, the human rights defender was due to be released from the Navoi penal colony. Shortly before this date, he was reportedly sent to a punishment cell as a result of allegations that he had gone to the toilet three times without permission. On 28 March 2014, Mr. Mamatkhonov's family was informed that he was facing criminal charges for having violated article 221 of the Criminal Code for his involvement in a fight with another prisoner and for disobeying orders of the prison authorities on 20 February 2014.

On 29 March 2014, Mr. Mamatkhonov was sentenced to two years, six months and six days in a penal colony under article 221 of the Criminal Code. Before the trial, Mr. Mamatkhonov was reportedly not given any details of the charges and he allegedly had no legal representation during the proceedings. Reportedly, he had his glasses taken away during the hearing, which left him unable to read the arguments he had prepared for his defence. The hearing took place in penal colony no. 64/67 in Navoi.

Since 30 April 2014, Mr. Mamatkhonov has been held in the pre-trial custody section of Prison 64/25 of Karaulbazar settlement in the Bukhara region. Reportedly, Mr. Mamatkhonov's family was not informed about the appeal and was unaware of the pre-trial detention. While Mr. Mamatkhonov was denied access to a lawyer of his own choice, his family reportedly managed to hire a legal counsel of their choice for the hearing at the Court of Appeal. This hearing took place on 15 May 2014, in absentia of Mr. Mamatkhonov. The Court of Appeal reportedly reduced the human rights defender's sentence to two years, three months and six days.

Serious concern is expressed at the allegedly arbitrary nature of Mr. Mamatkhonov's detention, sentencing and appeal, in particular his reported placement in a punishment cell, which may be linked to his legitimate human rights activities. Similar concern is raised that his trial did not meet basic international standards of fairness. Concern is also expressed about allegations that Mr. Mamatkhonov's access to a lawyer was denied.

While we do not wish to prejudge the accuracy of these allegations or to express an opinion on whether or not the detention of Mr. Mamatkhonov is arbitrary, the above allegations appear to be in contravention of the right not to be deprived arbitrarily of his

liberty as set forth in article 9 of the Universal Declaration of Human Rights (UDHR) and article 9 of the International Covenant on Civil and Political Rights (ICCPR), as well as the right to fair proceedings before an independent and impartial tribunal, as set forth in article 10 of the UDHR and article 14 of the ICCPR.

The above allegations appear to be in contravention with the right to be assisted by a lawyer, as set forth in the Basic Principles on the Role of Lawyers, and in particular principle 1 and in contravention with the right to be informed of charges as set forth in article 9 (2) of the ICCPR.

We would also like to refer to article 22 of the ICCPR, which guarantees the right to freedom of association. In this connection, we would like to refer to Human Rights Council resolution 24/5, and in particular operative paragraph 2 that reminds States of their obligation to respect and fully protect the rights of all individuals to associate freely.

We would like to refer your Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2, which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels. Furthermore, we would also like to bring to the attention of your Government article 9, paragraph 1, which protects the right to an effective remedy, and article 12, paragraphs 2 and 3, which urges States to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of the legitimate exercise of the rights referred to in the Declaration.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Government to safeguard the rights of Mr. Mamatkhonov in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide information concerning the legal grounds for the detention of Mr. Mamatkhonov, the reasons for his sentencing under article 221 of the Criminal Code, and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR. Please provide information on Mr.

Mamatkhonov's access to family members, legal counsel of his choice, and medical personnel.

3. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to Mr. Mamatkhonov's trial. If no inquiries have taken place, or if they have been inconclusive, please explain why.

4. Please kindly indicate what measures have been taken to ensure that human rights defenders in Uzbekistan are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Mr. Nurmetov, the assurances of our highest consideration.

Mads Andenas
Chair-Rapporteur of the Working Group on Arbitrary Detention

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and
of association

Michel Forst
Special Rapporteur on the situation of human rights defenders

•

Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers